**RESPONSES TO IV-E QUESTIONS POSED BY WISCONSIN DIRECT SERVICE STAFF**

1. Q: What court orders are referred to on the 201 form - order for emergency custody or placement (temporary order), consent decree, temporary order, or dispositional order?

   A: The 201 form refers to the date a court order for placement was obtained stating the "contrary to welfare" and "reasonable efforts" language. The response to this question could be two different answers. The **initial** court order which authorizes removal from the home, usually the Order for Temporary Physical Custody (Secure or Non-secure) or Dispositional Order, **must** contain the "contrary to welfare" language. If the language is not contained in the removal order, the child is never eligible for IV-E throughout the placement episode.

   The court order with a "reasonable efforts" finding can be obtained at any time during the child's placement. This language is found in the Dispositional Order/Delinquent, Dispositional Order/In Need of Protection or Services, or the Order to Change Placement/Revise Dispositional Order/Extend Dispositional Order. Title IV-E funds cannot be claimed for maintenance costs until the "reasonable efforts" finding is obtained, so it is always recommended that this judicial determination be obtained as early as possible during the placement episode.

2. Q: When a child has been living with a friend or relative and is removed from that home, whose income do we consider for 205 purposes?

   A: When a child has been living with a non-parent specified relative as defined in AFDC policy (brother, sister, uncle, aunt, first cousin, child of first cousin, nephew, niece, grand, great, or great-great grandparents, et. al.), only the child's income is considered at the time of initial eligibility determination and ongoing redeterminations.

   If the child has been living with a non-relative, you must first determine whether he/she lived with a specified relative at any time in the previous six months. If he/she did not live with any relative during that time, he/she does not meet the initial AFDC relatedness criteria and thus is not IV-E eligible. On the other hand, if the child lived with a relative or relatives during the previous six months, you would look at the home where the child lived most recently in the past six months and consider the family's income if he/she last lived with his parent(s) or consider the child's income only if he/she last lived with a non-parent specified relative. As always, only the child's income is considered at the time of redetermination.

3. Q: How long does the child have to live with that non-relative or relative before we consider the child removed from the home?

   A: The "removal home" is the home from which the child is physically removed and where daily care and supervision of the child is maintained. The exact length of time the child has been under the daily care and supervision of the non-relative or relative is not significant.

4. Q: When a child is removed from the home and placed on the same day in the county shelter home and then, at a later time, is placed in an out-of-home care placement, which date is considered the date of the child's removal from the home? (The shelter home stay is not paid from our foster care payroll.)

   A: The date the child is removed from the home is the date of the child's physical removal regardless of whether the shelter home is paid.

5. Q: When biological parents terminate parental rights and the child is adopted and, at a later date enters foster care, is the child considered deprived (due to TPR) if the adoptive parents are an employed, intact family unit?

   A: No. If the child is legally adopted, his adoptive parents must meet one of the deprivation factors. Since the parents are an employed, intact family unit, the only other deprivation factor to consider is disability/incapacity. TPR only qualifies as a deprivation factor until the time the child is legally adopted.

6. Q: When the cost of care exceeds an SSI payment the child is receiving, should we terminate the SSI payments and claim FFP if the child meets all other IV-E requirements?

   A: As a general rule, if the child's SSI monthly payment is less than the monthly foster care payment, you should consider suspending SSI and claim IV-E instead. There are two other factors to consider, however, before you make a decision: The anticipated length of time the child will be in care and the extent of the child's disability.

7. Q: We have a case where the NLRR foster parent is a relative of the TPR parent. Does the TPR eliminate the relationship between the child and NLRR foster parent?

   A: The response to this question should be explored with Income Maintenance.

8. Q: When a case has a petition date in 7/89. and a supplemental petition filed in 9/89, which month do we use as the month of petition for 205 income/asset information -- the month of the original or the supplemental petition?

   A: The month the petition is filed which leads to the child's removal from the home should be used. Under most circumstances, the petition to consider is the most recent one filed prior to removal.

9. Q. A child has been living with a NLRR for a long time (years) and there's been no foster care payments made or foster home license requested. The child is removed from this NLRR home and put into foster care. The NLRR has no legal responsibility for the child, so we cannot consider their income/assets. Do we look only at the child's income and assets or must we attempt to get financial information on the parents? In some of these cases, the parents are not known.

   A: If the agency removed the child from his/her parent's home and placed him/her in the NLRR home initially, IV-E eligibility should have been established at that time. If the agency later removes the child from the relative's home and places him/her in a licensed foster home, only the child's income/assets would be considered -- the same as when you conduct any IV-E redetermination. However, if IV-E was never initially established, you will have to attempt to reconstruct the child's circumstances at the time of removal. This would require you to obtain financial information about the parents at that time. If the parents are not known, you will not be able to establish initial eligibility unless you can search historical AFDC records and/or employment history files, etc.

10. Q: A minor mother abandons her child, leaving the child with the baby's grandfather. DSS petitions for and is granted custody of the child. Mother's whereabouts are unknown and grandfather is an NLRR. Whose income/assets are used on the initial 201/205?

    A: Technically the child would not meet the initial eligibility requirements for IV-E because he was not **physically removed** from the grandfather's home as the result of a court order. Some States have opted to interpret this rule more liberally and would say that the child was **legally removed** from his mother. In that case, the mother's income and

assets as well as the child's should be considered.

11. Q: A child in foster care has unmarried parents, but the father is adjudicated and resides with the mother and the child. For purposes of deprivation, do we consider them to be married (which is the method used in income maintenance) and base any possible deprivation on unemployed parent criteria?

A: If the father is adjudicated, you would use the same method as income maintenance uses when determining whether deprivation exists. Any possible deprivation would be due to unemployment or incapacity.

12: Q: A child who is in foster care is placed at Lincoln Hills School (LHS) (custody transferred to state) and after the LHS placement, is returned to foster care (custody returned to DSS). Is it correct to do a redetermination since we had completed an initial determination earlier at the time of the first foster home placement?

A: Yes. The child's IV-E eligibility status would be the same as it was prior to placement at LHS. His placement costs while in LHS are not reimbursable because it is a secure facility. A redetermination should be conducted every twelve months regardless of where the child is placed.

13-14 Q: A child is transferred from LHS to foster care placement (custody transferred to DSS). We cannot do a redetermination because an initial determination had not been completed when the child was placed at LHS. Would we do an initial determination? If so, what petition date would we use - the petition relating to the child's removal from the parental home and placement at LHS - or the revision of the petition date which gave DSS custody of the child and allowed subsequent placement in a foster home.

A: You will first have to reconstruct the child's circumstances at the time of removal in order to do an initial eligibility determination. The petition which led to the child's initial removal from the parental home should be used. In this case, it would be the petition which resulted in placement at LHS.

15. Q: If the child went directly from the home to LHS and spent several years at LHS, it would be difficult, if not impossible, to gather financial information from the initial petition date.

A: That's true. If the parents are unavailable or unable to recall their financial circumstance at the time of initial placement at LHS, you should at least attempt to search computer files for AFDC, employment history, etc.

16. Q: When placed in court-ordered supervised independent living, does the child still remain eligible for Medical Assistance? If yes, what medical status code should we use? (33-FFP or 34-non-FFP)? According to instructions in Memo Series DCS-89-19, "children in approved independent living ... are not eligible for FFP," and page 15, "state foster care funds cannot be used to fund a child in independent living."

A: The definition of supervised independent living must first be examined. If the child is living completely independently and receiving a monthly stipend from the DSS, he/she would not be eligible for IV-E and his/her eligibility for medical assistance would have to be determined on an individual basis. However, if the child is placed in a licensed facility or foster home and is being "supervised" by that licensed provider, he/she may be IV-E and Medical Assistance-eligible if all other criteria are met.

17. Q: If a child is not eligible for Medical Assistance, how would the child's medical bills be paid?

A: If the parents have health insurance, this resource should be used. If not, medical bills are paid with state and county funds.

18. Q: A child receives $514 in monthly social security benefits (an earned income in excess of eligibility limits). Would this make him ineligible for Medical Assistance? If so, how would the child's medical bills get paid?

A: If the child's earned or unearned income exceeds eligibility limits, he would be ineligible for Medical Assistance. In that case, the medical bills would be paid with state and county funds.

19. Q: When a child who receives SSI benefits is placed in out-of-home care and the monthly maintenance rate is less than the SSI payment, we would use the SSI source of funding instead of IV-E. When the monthly maintenance rate escalates above the SSI payment and other FFP requirements are satisfied, the 201/205 instructions state to use FFP funding. To claim FFP, would completing a 201/205 redetermination be satisfactory or do we need to complete a new initial 201?

A: If the child is placed for adoption outside the original county of jurisdiction, all case record materials documenting IV-E foster care eligibility should be transferred to DCS or to the receiving county at the time of placement in the adoptive home.

24. Q: Why complete form 130 if the child receives an SSI payment which meets, or-in many cases exceeds, the foster care payment?

A: According to State policy, all children in foster care placement must be referred to Child Support. If child support funds are collected, the amount should be placed in the child's individual trust account.

25. Q: If the parents are divorced and living separately, must two 205 forms be completed?

A: No, only one form is completed. After you establish the removal home (mother or father), only the financial information of that parent (and stepparent, if applicable) is considered when establishing initial eligibility.

26. Q: I am confused on the function and purpose of the form 130. In the past, I, think it was to be used in determining parental responsibility but, since Memo Series DCS90-28, **determining** parental responsibility is referred to Child Support in all cases. What is the story on form 130?

A: This form is used to collect financial information from the parents and to determine the appropriate amount of monthly support payments.

27. Q: If a child is over 18 (in school), in out-of-home care and working, must this person be considered responsible for contribution to support? Same situation, but child is under 18.

A: There are no federal or state requirements mandating children in foster care (regardless of age) to be responsible for contribution to support.

28. Q: If a child in out-of-home care is funded with IV-E and runs away, returns, but is placed in shelter care and then later returns to out-of-home care, is the placement fundable with FFP?

A: Yes. The child would continue to be reimbursable from the time he/she returns to care after running away as long as all other criteria are met.

29. Q: Must the county agency start over with a new 201 form upon a child's return to out-of-home care after running away?

A: No. The child's eligibility status need only be redetermined at the time he returns to a foster care placement.

30. Q: Is the concept of holding a bed open for two weeks and paying for it applicable in a case like this? That is, one needs to begin again with the FFP determination process only if the youth is AWOL over two weeks.

A: No. There is no limit to the time the child can be AWOL when redetermining the eligibility status of the child. Unless the child is AWOL for an extremely long period of time (at least six months), it is not necessary to establish initial eligibility again.

31. Q: In NLRR cases, do we look at the biological family, the child, or the NLRR family in determining FFP'?

A: When determining initial eligibility for children placed in non-licensed relative homes, you need to look at the home from which the child is physically removed. See responses to questions 2, 3, 9, and 10 for further details.

32. Q: If a child goes to shelter care then to longer term out-of-home care, when must the 201 form be completed in order to maximize FFP. Many youth go to shelter care and return home rather than go to longer term out-of-home care and, in these cases, early completion of forms necessary for FFP eligibility determinations would be fiscally nonproductive.

A: It is recommended that all children be referred for an initial eligibility determination at the time of removal, regardless of the anticipated length of time the child will remain in care. If the social worker has discretion over which children should be referred for an eligibility determination, many children could be lost in the process. It is difficult to obtain accurate financial data from the family when it is not collected at the time of initial removal.

33. Q: If a determination is made, based on familyy income, that the case is not FFP eligible, why must the agency continue the long FFP determination process and determine the family assets etc.?

A: If it is initially determined that the family's income exceeds allowable AFDC standards or the removal court order does not contain the necessary "contrary to welfare" language, the child will never be eligible for FFP during that placement episode. If either of these two circumstances exist, it is not necessary to continue with the full-scale eligibility determination process.

34. Q: The scenario: A petition was filed 3/26/91 with the plan for the child to be placed in CCI #1. A court order followed but the child was not placed in the CCI. On 6/21/91 a second petition was filed and the court subsequently ordered the youth to Lincoln Hills, where he was placed. On 2/5/92, a third petition was filed to extend the youth's stay at Lincoln Hills and the court followed with an order. In early 1993, a fourth petition was filed to transfer custody to Outagamie County for placement at CCI #2. A court order followed and the youth was placed at CCI #2. When determining IV-E eligibility, a) which date should be used for the court order, b) which date should be used for the petition, and c) which date should be used for the child's removal?

A: A) The court order that was issued following the 6/21/91 petition which resulted in the child's placement should be looked at to see if it contains the necessary "contrary to welfare" language. B) The petition dated 6/21/91 which led to removal of the child from his home should be considered. C) The 6/21/91 date should be used for the child's removal if that is the date the child was physically removed from his home and placed at Lincoln Hills. -

35. Q: If a child is removed from FFP eligibility and from state funding because of untimely (late) administrative reviews, can the county get the child back on FFP and/or state funding?

A: The timeliness of administrative reviews is not an eligibility requirement for Title IV-E. See response to question #22 above for further details.

36. Q: Once a child becomes non-FFP due to excess assets, can the child become FFP eligible again when the assets go below the limit or if assets are made unavailable to the child until age 18? (Assets are to be used for moving into independent living.)

A: Yes, the child can gain reimbursability once again if his/her assets fall below the allowable limit. If the assets are unavailable to the child until age 18, such as when his/her money is in an irrevocable trust, he/she would also continue to be reimbursable for FFP. However, if the child is saving money for independent living and he has ready access to these funds, they must be considered assets and would affect the child's reimbursability status when they exceed the allowable limit.

37. Q: A child was removed from his own home by a court order and placed with an aunt on 3/9/92. On 9/8/92, the placement failed and the child was placed in shelter care. On 10/27/92 (over 30 days), the child was placed in foster care based on the original court order. According to my interpretation of the 201 form, the child would not be IV-E eligible, but as I understand the philosophy of FFP, the child should be eligible.

A: As long as the child remained in one continuous placement episode (never returned home), his initial eligibility would have been established at the time of removal on 3/9/92. His reimbursability status may change depending on whether the aunt's home is licensed but the length of time the child is placed in shelter care (more or less than 30 days) has no effect on his IV-E reimbursability status.

38. Q: Does FFP eligibility begin on the date of the court order or the following day, providing all other criteria are met?

A: If the child is placed on the same date that the court order is obtained, FFP eligibility can begin on that date, providing all other criteria are met.

39. Q: Are the processes for administrative review, 201, etc. for NLRR cases the same as for regular out-of-home care cases?

A: No. If it is an NLRR case, there is no requirement for conducting a permanency plan review or determining eligibility for federal funding. If the relative is a licensed foster parent, then all of the usual requirements apply (but then it would not be an NLRR case).

40. Q: What is the legal status of a child who is detained, placed in non-secure custody, waives detention hearing, and continues in non-secure custody placement pending petition and finding?

A: The child's legal status remains until another hearing is held.

41. Q: How does an agency determine MA eligibility for a child with assets over $1000?

A: The State has various options for providing Medical Assistance for children. However, in most circumstances, the child would not be MA eligible if his/her assets exceed $1000.

42. Q: I'm asking that the Department issue a statement waiving the 201 and 205 forms in circumstances where the placement will be very short term and where the cost of gathering the information will far outweigh the federal reimbursement. Absent that, a statement indicating a minimum number of days that a child must be in care or at least some minimum cost that must be involved with that care before it is necessary to complete these forms.

A: See responses to questions 32 and 33 above.

43. Q: When a child in foster care is receiving SSA or SSI and this money exceeds what the foster care cost is, do we keep the case open? Do we establish a savings account on behalf of the child and put the remainder in it?

A: If the child's SSA or SSI payment exceeds the monthly maintenance cost, the agency, as payee, should establish a trust fund for the child and place the remainder of the benefit amount in this account. If the balance in the trust fund exceeds the allowable limit, the child's placement is not reimbursable until it falls below the limit.

44. Q: If we close out the case described above, then have the child apply for Medical Assistance in their own right, they are not eligible because they are over-income. What do we do then?

A: The child's medical bills will have to then be paid with state and county funds.

45. Q: We have a situation where a child comes into the system through juvenile court intake and is placed into out-of-home care under a non-secure custody order. The petition does get filed, but you don't have a formal court order within the thirty day requirement for filling out the 201/205 forms. Is the non-secure custody intake considered a court order for the purposes of determining FFP eligibility?

A: Since the non-secure custody intake form is completed by the Intake worker, it is not considered an actual court order.

46. Q: We have had a concern about applying for SSI for children in out-of-home care if we identify the child as IV-E eligible.-

A: See response to question #6 above.

47. Q. Should the county pursue SSI funding for any kids where they may be determined disabled and financially eligible?

A: Yes.

48. Q: What about the date of placement when a child has been placed, then runs away, is found, and then is re-placed? Do we go with the initial placement date or the re-placement date?

A: Generally, you will use the date of initial placement when considering IV-E reimbursability. See response to questions #29 and 30 above for further details.

The above questions and responses are referenced and (cross-referenced) into the following subject headings:

ADOPTION - Questions 5, (23)

AFDC - Questions 2, (7), (8), 9, 10, 11, (18), (25), 27, 28, (31), (33), 36, (43)

CHILD SUPPORT - Question 26
LEGAL - Questions 1, (8), (14), (23), (34A, B, C), (40),

DETENTION/LINCOLN HILLS SCHOOL Questions (12), (13), (14), (15), (34A, B, C), (40)

INDEPENDENT LIVING - Questions (16), (17)

MEDICAID - Questions (16), (17), (18), 41, 44

NLRR (NON-LICENSED RELATIVE HOMES) - Questions (7), (31)

PLACEMENT EPISODE - Questions 28, (29), (30), (37), 48

PROCEDURES - Questions (12), (13), (14), (15), (19), (20), (22), (23), (24), (25), (26), (29), (30), (32), (33), (39), 42, (45), (46)

REMOVAL HOME - Questions 3, (37)

SHELTER - Questions 4, (32)

SSI - Questions 6, (19), (24), (43), (46), 47

TITLE IV-B, SECTION 427 REQUIREMENTS - Questions (22), 35, (39)

**SAMPLES OF ACCEPTABLE CONTRARY TO WELFARE LANGUAGE**

The removal court order must contain language to the effect that "continuation in the home is contrary to the welfare of the child". Other types of language are acceptable, such as:

- the juvenile is without proper care, custody, or support and that immediate protective custody is necessary to prevent personal harm to the juvenile.
- removal of the child is/was necessary to protect the child because
- the child is being neglected and is without proper care and supervision
- there are reasonable -rounds to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child.
- There must exist reasonable grounds to find that the child's condition or the circumstances surrounding his/her care require that his/her custody be immediately assumed to safeguard his/her welfare.
- Strong probability that the chid may do something that is injurious to herself/himself prior to the court disposition;
- The child will commit or attempt to commit other offenses injurious to him/herself or to the community before court disposition;
- The child's continued residence in his/her home, pending disposition, will not safeguard the best interests of the child or community, because of the serious and dangerous nature of the acts or acts the child is alleged to have committed;

**RESPONSES TO TITLE IV-E ELIGIBILITY QUESTIONS: PART II**

49. Q: Questions 24 and 26 deal with the DMS-130 form. Is this form still necessary?

A: No. Title IV-E requires a mandatory referral to the Child Support agency. It may also be the county's practice to refer all out-of-home care placements to Child Support. It is not necessary to continue to use the DMS-130 form. It is the Child Support agency's responsibility to obtain parental financial information.

50. Q: Question 39 deals with NLRR placements and Title IV-E eligibility. Is it necessary to do a Form 201 for this type of placement?

A: Unless there is a court order placing the child in the NLRR home and there is a foster care payment to the provider, there is no immediate need to do a Form 201. However, NLRR placements often result in foster care placement. To prevent having to do a Form 201 at some later date, you may choose to do a Form 201 on each initial NLRR placement.

51. Q: Questions 32 and 42 deal with short term placements. What number of days of placement should we use to decide when to do a Form 201?

A: If the child is in placement less than 10 or so days, with a resulting return home, it is not enough expense to justify doing an initial determination. There is, however, no firm number of days established.

52. Q: Question 44 deals with a child's trust account, and how a non-Medicaid eligible child's medical expense should be paid. Could the trust account be used to pay for unreimbursed medical expense?

A: Yes, if the conditions of the trust allow access for such purposes.

53. Q: Question 18 deals with SSA and Medicaid eligibility. Does a child's unearned Social Security income of $514 a month make the child Medicaid ineligible?

A: No, not necessarily. An eligibility determination would still have to be made.

54. Q: Is living with a legal guardian the same as living with a specified relative for establishing AFDC relatedness?

A: No, unless the legal guardian is also a specified relative.

55. Q: Is a Court Intake Worker's signature on a TPC (temporary physical custody) Request acceptable as an initial court order?

A: No. The initial removal order must be signed by a Judge and should contain the 'contrary to welfare' language to conform with initial IV-E eligibility. See question 45.

56. Q: If the child is initially Not Eligible, is it necessary to ever redo a Form 201 or do a redetermination using Form 201A?

A: No. See question 33.

57. Q: The Form 201 (5/96) states in Item 2.b that either the TPC Order or the first Dispositional Order must contain the 'Contrary to Welfare' language. Shouldn't the first

removal order contain this language?

A: Yes. If the TPC Order is the first removal order, and it was signed by a Judge, then it must contain the correct language. However, if the Dispositional Order is the first removal order signed by a Judge, it must contain the correct language. See question 55.

58. Q: If a child has been in a hospital since birth and goes directly into out-of-home care, what is the removal home?

A: The mother's home is the removal home, regardless of how long the child has been in the hospital. In this case, the eligibility month removal home will be the mother's.

59. Q: For a child placed into care due to the mother's death, and the father is in prison, is it necessary to have 'reasonable efforts' in the Dispositional Order?

A: Yes, but the language 'no reasonable efforts were possible' is allowable to satisfy the required language.

60. Q: On the Form 201 A, Question 4 requires that the agency have legal responsibility. What if the agency has let a Dispositional Order lapse, and later obtains an extension order which provides custody back to the end of the prior order?

A: In this instance, the agency can answer Yes to Question 4 because there is continued child custody. If, however, an extension order did not link back to the prior order and instead started when the new order was signed, those months without legal responsibility would be Not Reimbursable.

61. Q: Is the 'best interests' Dispositional Order needed before 180 days after VPA signature or from date of placement?

A: Generally, the child is placed after the VPA is signed. The 180 day count starts on the placement date.

62. Q: For a child aged 12 and older who is placed under a VPA, is it necessary to obtain the child's signature to have a valid executed VPA?

A: Yes. There must be documentation that a child aged 12 and older consents to the Agreement.

63. Q: How will the National Welfare Reform bill affect AFDC relatedness for Title IV-E?

A: It maintains eligibility guarantees for foster care and adoption assistance maintenance payments for children from families that *would have been eligible* for the AFDC program as it existed in each state on June 1, 1995.

64. Q: When should the Form 201A redetermination be done?

A: The Form 201A review should be done 12 months after the 201 initial determination date. It can, however, also be done at any point within that 12 month period if desired.